IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 19045 of 2006(P)

PETITIONER:

SARANGAN. N., ARUNALAYAM,
KOTTAKKUPURAM, K.S.PURAM, CLAPPANA P.O.,
KARUNAGAPPALLY, KOLLAM DISTRICT.

BY ADV. SRI.R.GOPAN
SRI.K.HARILAL

RESPONDENTS:
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1. THE ASSISTANT ACCOUNTANT GENERAL
THIRUVANANTHAPURAM.

2. THE TREASURY OFFICER,
SUB-TREASURY, KAYAMKULAM.

3. THE PRINCIPAL, GOVT.G.H.S.S. FOR GIRLS
KAYAMKULAM, ALAPPUZHA DISTRICT.

*R4. THE MANAGER, KSFE
ADOOR BRANCH

*R5. R. MADHUSOODANAN NAIR,
NEELETHU VEEDU, PERUNGALA P.O.
KAYAMKULAM, ALEPPY DIST.

ADDL. RESPONDENTS 4 & 5 ARE IMPLEADED AS PER ORDER DT. 21.08.2006 IN IA NO.11639/06.

BY GOVERNMENT PLEADER SRI. A.J.VARGHESE
SRI.SHIRAZ ABDULLA
SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NO. 19045 OF 2006

Dated this the 21th day of June, 2007

J U D G M E N T

Petitioner retired as High School Assistant on superannuation on March 31, 2001. His grievance is that the amount payable to him as death cum retirement gratuity is being withheld by the authorities for no justifiable reasons.

2. It appears that the amount has been withheld in view of Ext.R3(a) prohibitory order issued by the Special Deputy Tahsildar, Revenue Recovery, Kerala State Financial Enterprises Ltd. Quilon directing the Headmistress of the school not to release the amount to the petitioner. It is admitted by the petitioner that he had stood as surety for respondent No.5 for a loan availed from the KSFE. But it is the specific case of the petitioner that he had not given any written consent as per Ruling under Rule 3 Part III KS&SSR authorising or empowering the creditor to recover any amount either from his salary or other retrial benefits.

3. In the counter affidavit filed by respondent No.3, this contention raised by the petitioner is supported. It is further stated that on receipt of Ext.R3(a), petitioner had requested the Special

Deputy Tahsildar to inform her whether the petitioner had furnished any written consent to the KSFE to effect recovery from the dues payable to him. It was further requested to forward a copy of the written consent, if any, to her. There was no response from the KSFE. Though respondent No.3 had addressed the Deputy Director of Education, Alappuzha, in this regard, he had not received any reply from the said officer also. Neither respondent No.4 nor respondent No.5 have controverted the contention raised by the petitioner that he had not given any written consent authorising the creditor to recover any amount from his salary or other retrial benefits.

Having regard to the entire facts and circumstances particularly to the fact that the petitioner had not given any written consent at the time when he stood as surety for the loan availed of by respondent No.5 from respondent No.4, I am satisfied that Ext.R3 (a) prohibitory order cannot be sustained. Therefore it is quashed. Respondents 1 to 3 shall ensure that petitioner is paid gratuity payable to him as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Respondent No.4 shall be liable to pay interest to the petitioner on

the amount of DCRG at the rate of 6% from July 1, 2006 till the date of payment. This shall be done by respondent No.4 within one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007